64 Parl. Papers
For Reference only

PASSENGERS' ACT.

REPORT

OF

LAND AND EMIGRATION COMMISSIONERS,

ON NECESSITY OF AMENDING THE

PASSENGERS' ACT;

WITH

THE AMENDMENTS IN DETAIL, AND THEIR REASONS, AND REFERENCES TO THE CORRESPONDING CLAUSES OF THE EXISTING ACT.

Presented to both Houses of Parliament by Command of Her Majesty.

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REPORT, &c.

Colonial Land and Emigration Office, 9, Park Street,
SIR, Westminster, 22nd July, 1841.

WE have the honour to submit for Lord John Russell's information some suggestions for the amendment of the statute 5 and 6 Will. IV., c. 53, commonly known as the Passengers' Act.

This Act constitutes the law for regulating the carriage of passengers by sea to the British colonies and other countries situated beyond the limits of Europe and the Mediterranean Sea. Any legislation of this nature must, as far as it goes, interfere with the freedom of trade, and it cannot be denied that many of the regulations tend to enhance the cost of conveyance. Several persons, therefore, were opposed to the enactment of the law even in its present shape, and considering besides the general objections to frequent changes of the law, it would perhaps have been useless, without full proof of the manner of its working, to attempt to procure an assent to additional provisions intended to give this statute increased efficiency. But Lord Durham's Report some time ago attracted strong attention to the suffering and evils which frequently attend the passage of poor emigrants to North America, and in the present Session of Parliament there has been printed amongst the correspondence with the Governor-General of Canada an able and judicious report giving the authority of Lord Sydenham in favour of a revision of the Passengers' Act, and containing several suggestions which indicate his Lordship's views of the nature of the amendments to be tried. We have no doubt that the time has arrived when there has been sufficient experience to admit of well-digested endeavours to improve this statute: and in bringing the subject before Lord John Russell, we propose, first, to describe the general objects of the Act; secondly, to advert briefly to the previous course of legislation on the subject; and, thirdly, to state the main grounds and principles of the most important alterations we would venture to submit. We shall then annex, in a separate paper, a list and description of all the proposed alterations in detail.

The principal objects of the Passengers' Act are :—

1st. To regulate the number of emigrants conveyed in the different vessels, and to provide for their proper accommodation on board ;

2ndly. To ensure a proper supply of provisions and water ;

3rdly. To provide for the seaworthiness of the vessels ;

And, 4thly, to afford the poorer class of emigrants protection from the numerous frauds practised upon them before they leave this country; to provide for their being carried to their stipulated destination ; and to secure them a reasonable time for making arrangements before they are landed from the ship.

All the earlier enactments on the conveyance of passengers were repealed, and the provisions on the subject collected into one law, by the Act of 4 Geo. IV., c. 84, which was re-enacted in 1825, with modifications, by the Act 6 Geo. IV., c. 116. This statute contained a set of regulations apparently well adapted to the purpose of fulfilling all the objects above mentioned, but then it enhanced, or was supposed to enhance the price of passage so much as to prevent the emigration of great numbers of the poorer class of emigrants. The Act of 1825 was therefore repealed in 1827, on the recommendation of a Committee of the House of Commons which sat on emigration in the same and in the preceding year, and for a short time the trade was suffered to be carried on without being regulated by any legislative enactments whatever. Before the end of the year, however, the complaints received at the Colonial Office respecting the consequence of that repeal, were so numerous, and supported by such strong evidence, that in order to protect the emigrants from further sufferings, it was deemed advisable to have again recourse to the interference of Parliament. The Act 9 Geo. IV., c. 21, was passed accordingly, and contained what was then considered the minimum of regulations necessary for this purpose, but those regulations proving inadequate, the present Act, based on the same principles, was passed in 1835. This Act, which has been in operation since that period, has certainly prevented many of the mischiefs which followed the repeal of the Act of 1825, but as several of the most important

of its provisions are continually being evaded, and as the protection afforded by others falls short of what it was obviously the intention of the Legislature to confer, it has become apparent that some further amendments are desirable.

Into the proofs of the defectiveness above stated, it will not be necessary that we should enter at any length. It is matter of notoriety, and is not we believe disputed. Without multiplying documents, it may be enough to observe that the Papers on North America, presented to both Houses of Parliament by Her Majesty's command in the last Session, contain ample testimony on this point. In the reports from Dr. Douglas, Superintendent of Quarantine, and from Mr. Buchanan, the chief agent for emigrants, and in Lord Sydenham's despatch of the 26th January, 1841, founded on those reports, will be found a comprehensive view of the evils which arise under the present Act, and various instances of them, together with some useful suggestions of remedies. For greater convenience of reference, we annex extracts of the portions of those documents which relate to the present subject.

Without entering further, then, into the detailed proofs and illustrations of the defectiveness in the existing law, we shall proceed, as proposed, to explain the objects and grounds of the main alterations of which we would recommend the adoption.

The two great classes of complaint have been, in the first place, privations on board ship, and consequent sickness and mortality; and in the second place, the frauds practised on emigrants before they leave this country.

After mature reflection, we are convinced that the only efficient remedy for the first would be that to the extent of supplies required by the present Act, the ship should victual the passengers. We were not willing at first to admit this conclusion, because we feared that it might prevent the emigration of many persons who could, by the assistance of their neighbours, or from other charitable sources, collect a sufficient stock of provisions for the voyage, and yet might be unable to raise means for paying the price of their subsistence by a shipowner. And as these would be the poorest class of emigrants, they are those to whom we should be the least willing to shut the door against proceeding to other places affording them better prospects. But on the other hand, for the same reason, these are the very persons who are most likely to provide for themselves insufficiently, and thus to fall into sickness, which does not confine itself to them only, but extends to whole bodies of passengers, and perhaps eventually introduces infection into the country to which they are destined, thus producing the extensive disasters which have been so much complained of and are so much to be deprecated.

The Act indeed endeavours to take security that enough provisions shall be put on board, whether found by the passengers or by the owner. But after making inquiry of all the Government agents at the outports, while we are satisfied that they do their best to enforce the law, we also cannot but think that the task is impracticable. It is enough to reflect upon the condition of a vessel into which 200 or 300 people are crowding together, each one carrying his own box or bag of provisions, and perhaps the vessel intended to sail within 24 hours, in order to feel how impossible it must be to exercise an effectual superintendence under this head. The officers report that they often do detect deficiencies, and cause them to be supplied; but it is obvious that many other cases of a similar kind must escape the most vigilant attention. Another great evil when the provisions belong to the passengers themselves, and are under their own control, is the waste that occurs. On the whole we cannot venture to hope that the fearful accounts at times received of privation during the voyage, and of consequent suffering, sickness, and mortality, can be at all effectually met by any other remedy than requiring that the passengers shall be victualled by the ship. We do not mean by this that the ship should find everything which it would be desirable that the passengers should have; it would still remain for themselves, as it does under the existing law, to procure any allowance of meat or fish, and any little comforts, such as tea, sugar, vinegar, &c., which it is important they should have. The Government agent at the outport should continue to exhort them to make some reasonable provision of this kind. But the quantities of food which the Passengers' Act has computed to be indispensable for actual subsistence, would be secured by a more certain mode.

The next class of subjects on which loud and just complaints arise, consist of the frauds practised in this country. On this point, however, we must guard against one rather common misapprehension. It is no necessary proof of a defect in the laws, or of remissness on the part of public officers, that persons who are

about to leave the country should suffer themselves to be misled by deceptions. Each person's best security must consist in his own good sense; nor can any enactments, or any activity of administration, supply the want of proper discretion in individuals. But considering the humble stations of the persons concerned in the present question, and their consequently limited means of information, and remembering, also, how little familiar the nature of the business must be to persons bred to inland pursuits, while the general object itself is of such importance to the whole labouring population of the kingdom, it does appear to us that emigration is a matter in which the law may with propriety interfere much further with individual action, and much more endeavour to supply individual deficiencies, than in most other subjects of legislation.

A great number of evils would be prevented by requiring that no passage money should be taken without granting a receipt in a form to be prescribed by the Act. By means of such a receipt evidence could be provided, which would ensure to the emigrants their proper allowances during any time they might be detained by the vessel's not sailing at her appointed date. This receipt will therefore, we have no doubt, be a great improvement. It will still, however, be but one of detail. And observing how many are the shapes in which deception is practised, we apprehend that the only really very effectual attempt to provide a remedy on the subject, would be to require that the passage brokers should have licences in the same manner as pawnbrokers, and some other classes, liable to forfeiture on sufficient proofs of misconduct. At most of the ports we find that the unfair dealings are carried on by a few well-known parties, while the remainder of the trade probably is in respectable hands. In some instances formerly, when unprincipled dealers found themselues inconvenienced by the activity of the Government agents, they betook themselves to other ports where no such officer existed. The power of withdrawing a licence would give an adequate control over persons of this kind, and perhaps the fear of its loss might be sufficient to induce them to carry on the business in a more respectable way. We are sensible of the general objections that may be made to large powers of this kind. But on the other hand we would point to the cruel injuries inflicted upon poor and comparatively helpless emigrants, and also to the public importance of keeping as open as possible, and as free from hindrances and discouragements, the channels through which the labour of the country may seek the situations in which it can be best rewarded.

Some other measures of much apparent advantage to the emigrant have been suggested by the high authority of Lord Sydenham, but on inquiry, and after much consideration, we find reason to fear that they would not be practicable, or would too much enhance the price of passage.

It is recommended that the emigrants should be required by the Act to bring on board clean bedding and sufficient clothes. But these are points on which we have reason to apprehend that there would arise much complaint of the interference of any public authority. When also it is remembered that from the single port of Liverpool, three or four vessels will sometimes sail in a-day, each carrying some hundreds of passengers, it will be obvious how difficult, if not impossible, would be any effective inspection under such an enactment.

Lord Sydenham justly urges the advantages that would arise from the presence of a government agent in each vessel carrying emigrants; but the fleets of timber ships in which the passengers to North America are conveyed, are so numerous, that we can hardly suppose so extensive an establishment of agents would be maintained at the public expense, as would be necessary for placing an officer on board of each ship; nor would it be easy to define in an Act of Parliament the powers to be confided to him, in order to render his authority effectual.

Mr. Buchanan, the chief agent for emigrants at Quebec, in common with many gentlemen residing at that place, appears to entertain an opinion very favourable to once more requiring the presence of a surgeon in passenger ships going to North America.

This was the rule in the Act of 1825 (6 Geo. IV., c. 116,) under which Act no ship carrying 50 passengers could clear out unless a duly qualified surgeon was on board. But when the Passengers' Act was renewed in 1828, by 9 George IV., the clause respecting the surgeon was omitted, probably owing to the objections advanced in the evidence before the Committee of the House of Commons on Emigration in that and the preceding year, on the ground that the expense would check emigration. The evidence moreover taken in the colony and quoted in Lord Durham's Report, shows that many of the persons to whom the medical superin-

tendence of emigrant ships is entrusted, when surgeons are taken, are in fact wholly incompetent to the task. We think the objections to the rule are, first, the cost, and next the limited extent to which it would probably affect its apparent use. From Liverpool alone 20,000 persons sailed in the quarter ending on the 30th June, both last year and this year. Assuming the large average of 200 persons to each ship, these people must have been distributed among 100 vessels. Is it to be expected that efficient surgeons, legally qualified to practise in their profession, could have been provided at the rate of 100 in a quarter from one port alone, at a season, moreover, when the demand for them at all the other large emigrating ports would have been at its highest?

On the whole, having in all our deliberations felt the importance and the propriety of rendering Her Majesty's North American colonies as easily and cheaply accessible to the British labourer as would be consistent with a due regard for his general safety, we do not think that there are sufficient grounds to retrace the step which was taken when the subject was before the legislature on a former occasion, and to require by law that vessels taking passengers to North America should carry a surgeon.

We have now described the most comprehensive changes which are either recommended by us, in the Passengers' Act, or which have been suggested by others. It only remains for us to make a few general remarks in conclusion.

Against the error of expecting too much from legislation on the present subjects, we have already endeavoured to guard. With every rule that can reasonably be enacted by Parliament, many inconveniences, we fear, must remain inseparable from the passage by sea, at their own cost, of large bodies of people in indigent circumstances. Induced to emigrate principally by want, it is not to be expected that these poor people can have the same habits, or command the same means, of cleanliness, as persons more favourably situated; they can neither have the same opportunities of knowing beforehand, or of providing against, if they knew them, the exigencies of a long voyage; nor can they enjoy the same immunity from the designs of low dealers, who gather the most heartless of gains by practising on the want of information amongst humble persons, whom a successful fraud not merely deprives of some superfluity, but reduces to destitution. In fact, whether in emigrating to countries abroad, or whether stationary at home, poverty will unavoidably be subject to some ills, from which competence is exempt.

But on the other hand, for these very reasons, it is perhaps the more incumbent on the legislature to provide, as far as it reasonably can, against the risks to which the poor are shown to be exposed. Few things could be more honourable to the labouring population of these kingdoms, or indicate a spirit more deserving to be fostered by the state, than the fact that years have occurred in which not aided by public resources, nor inspired with confidence by expectation of going under public superintendence, nor even invited by alluring publications or addresses, (for from North America these have not been usual,) but moved by the honest desire of a more independent subsistence, upwards of a hundred thousand people have left the shores of Great Britain and Ireland to seek places where there seemed to be a greater demand for their industry. Every motive of humanity, not less than considerations of national policy, would seem to call for an earnest endeavour to protect the poor people who display this spirit of enterprise. We shall be truly glad if the alterations we have ventured to recommend in the present Act should, without unduly enhancing the difficulties of procuring a passage, render it more safe and more commodious to the humble emigrant.

For the amendments proposed in detail, we beg to refer to the enclosed paper, merely observing that upon each subject in succession, we referred to all the suggestions that had at different times been offered by the Government agents at the several ports, and to all which had been made officially from Canada, and that Lieutenant Lean, the resident naval agent at London, and Lieutenant Henry who holds the same office at Liverpool, attended our Board upon the subject of these amendments, and upon each one of them, assisted us with their information and advice.

We have the honour to be, Sir,

Your obedient humble servants,

T. FREDERICK ELLIOT.
EDWARD E. VILLIERS.

James Stephen, Esq.,
&c. &c.

Extract of Lord Sydenham's Despatch to Lord John Russell, dated January 26, 1841.

From the weekly reports from time to time transmitted to your Lordship, from Mr. Buchanan's present report, and more than all, from the report of the medical superintendant at Grosse Isle, which accompanied my Despatch of the 26th ultimo, your Lordship will perceive the necessity of taking steps to ensure to emigrants more ample protection and assistance, both before and during their passage. This may, to a certain extent, be accomplished by amending the present Passengers' Act, and making more effectual provision for its future enforcement; but other measures will likewise be necessary, to which I shall presently call your attention.

You will observe, that of the emigrants who proceed to Canada, a large proportion, even when they embark, are insufficiently provided with clothes, with bedding, or provisions; that in many cases they have about them the seeds of disease, arising from the destitution and misery in which they have been living previous to embarkation, and that as a necessary consequence great sickness and mortality occur on the voyage, and immediately after their arrival in Canada.

Against destitution and, to a certain extent, disease, on the part of the poorer emigrants, it is impossible altogether to guard; but from the reports to which I have referred, it is evident that a great part of these evils are caused by the fraudulent practices on the part of passenger-agents, by the rapacity of the ship-charterers, and by the misconduct of the officers during the voyage. Here, then, is the first object for which Government assistance is required; viz., to increase the efficiency of the Government agents at the outports, and to put down the system of kidnapping which is said to be practised by travelling passenger agents. If this be done, and if the emigrant agents and customs officers do their duty, scenes such as those described by Dr. Douglas cannot recur.

I take it for granted that the existing law would be sufficient to punish the frauds practised by passenger agents; but if not, a provision should be introduced in the Passenger Act to meet that case. Strict care should likewise be taken in every instance where an emigrant vessel is detained beyond the time appointed for her sailing to enforce the 14th clause of the existing Act against the master. The emigrant agents, by making it their practice to visit the places where emigrants are generally lodged when waiting for their passage, and by attentively observing the proceedings of the passenger vessels at their respective stations, might, I conceive, easily perform this duty. I would further suggest to your Lordship whether some steps might not be taken, either by the Government or in communication with the municipal authorities at Liverpool, to provide accommodation for emigrants resorting to that port to embark for America.

For the protection of the emigrant during the passage, Mr. Buchanan has, in the Appendix to his Report, suggested several alterations of the Passengers' Act; in which, so far as they regard the further limitation of the number of passengers in proportion to tonnage, the prohibition of the sale of ardent spirits, the enforcement of the penalties in a summary way before the local magistrates, and the extension of the Act to all vessels carrying steerage passengers, I entirely concur. Of the importance of the last of these provisions the Report before me affords full proof: it appearing that in the case of the "————" the clearest evidence of misconduct on the part of the captain, and unseaworthiness of the ship, was of no avail, because the number of passengers was less by four than that allowed by the Passengers' Act. I must presume that it was from this circumstance only that the vessel was allowed by the emigrant agent at Glasgow to proceed to sea in so unseaworthy a state.

The third and fourth clauses of the Passengers' Act, if faithfully complied with, would appear sufficiently to regulate the provisioning of emigrant vessels.

The fifth clause imposes on the officers of customs the duty of seeing that the preceding clauses are obeyed; but I regret to state that this duty is notoriously neglected; and I am not aware that any censure has ever followed that neglect. In order, however, to ensure greater vigilance in future, I would suggest that at all ports where an emigrant agent is stationed, the customs' officers should be directed not to give a clearance to any vessel coming within the purview of the Passengers' Act, without having previously received from the agent a certificate that the provisions of that Act have been complied with.

I would further propose that, besides the amount of food specified in the Act,

emigrants should be required to bring on board with them clean bedding and sufficient clothes, and that the master of the vessel should be responsible for keeping the decks clean and healthy during the voyage.

But no law will be effectual to protect the emigrant during the voyage, unless some person clothed with sufficient authority to enforce it be placed by Her Majesty's Government on board the emigrant vessels, or at least on board of those which carry the larger number of emigrants. Once at sea, the emigrants are necessarily in the hands of the captain. Whatever extortion or oppression he may exercise towards them, they have no power to resist; and from the difficulty of enforcing the penalties when they arrive at their destination, from the indisposition of the emigrants to be detained to prosecute him, and from their ignorance of their own rights, he may be tolerably confident of escaping with impunity. A Government agent on board, who might very properly combine in his person the duties of medical attendant, would prevent these evils, and he might also be charged with the custody of the emigrants' own provisions, so as to prevent the waste which is said now to prevail; and be armed with authority to enforce personal cleanliness among them. I would earnestly request that whatever sum may be granted by Parliament towards emigration, a portion of it may be devoted to this important object.

EXTRACT of a REPORT from the IMMIGRATION AGENT at QUEBEC, appended to Lord Sydenham's Despatch, dated 26th January, 1841.

To provide an adequate remedy for the various hardships to which emigrants are exposed by the want of provisions, and the extortions and impositions of ship-masters and brokers, has been to me an object of the utmost solicitude; and I trust that your Lordship will not deem it foreign from my duty, if I take the liberty most respectfully to draw your Lordship's attention to the suggested amendments and additions to the present Passenger Act, which I have the honour to submit to your Lordship's consideration. Paper No. 10, p. 96 of the Appendix, contains my proposed amendments and additions to the clauses of the Act.

In the amendment which I propose to the third clause of the present Act, I assume that, by obliging the ship to furnish five pounds of bread per week for each passenger during the voyage, it would secure poor people from the horrors of starvation, and also protect them from the heavy contributions which ship-masters so frequently exact from them for supplies furnished to their craving wants. In my weekly reports to your Lordship I have had frequent occasion to mention the extortions practised by ship-masters for supplies of food; and I have sufficient reason for believing that they are deliberately contemplated by the authors as a source of pecuniary profit. An extra charge of 7*s*. 6*d*. for each passenger would fully cover the additional expense to which the ship would be put; and the emigrant would not object to the charge, aware as he would be of how it was to be applied, and that he would receive an equivalent for it.

In connexion with this subject, it becomes my duty to advert to the impositions practised by ship-brokers and agents, in the ports of the United Kingdom. The information I am in possession of, derived partly from verbal communications and partly from sworn depositions, applies more particularly to the port of Liverpool. Although instances of culpable deception occur elsewhere, they are, compared with Liverpool, much fewer in number, and of a less aggravated character.

The course pursued by the parties alluded to, and which I had the honour of bringing under your Lordship's notice, in my report of last year, may be thus briefly described:—Travelling agents are dispersed over the United Kingdom, who enter into engagements with intending emigrants for their passage across the Atlantic, and the emigrants are directed to assemble at the port of departure on some certain day fixed by contract for the sailing of the ship. The agreement is not observed by the agent or ship-broker, and the emigrant is frequently, by various excuses, detained from three to four weeks. During the delay, he is put to a heavy expense for lodging; and before it expires, his means becoming exhausted, he is obliged from necessity to break in on the provisions laid up for the voyage.

In support of this statement, I beg to refer your Lordship to the affidavits made by two of the passengers in the ship ————, from Liverpool, the originals of which I had the honour to forward to your Lordship, with my weekly report of the 25th of July last, and copies of which are exhibited in Paper No. 9, p. 93 of the Appendix. By the affidavit of Patrick Leary, it appears that the deponent was wrongfully detained at the port of Liverpool for a period of 25 days after the appointed day of sailing; and by the affidavit of Peter Scott, it appears that the deponent, with his family, 13 in number, was detained at the same port for a period of 21 days. I can assure your Lordship that the cases set forth in those affidavits are not of rare occurrence, and that it would be difficult for language to exaggerate the amount of suffering caused by similar practices.

The additional clauses, Nos. 1 and 2, which will be found at p. 98 of the Appendix, are intended to provide against the recurrence of these complaints. My experience and observation will justify me in representing to your Lordship that the proposed additions are of vital importance to the just interests of the emigrant. On his arrival here he has no redress for infractions of contracts which have been to him the occasion of intense misery, and which from

the present defective state of the law, are committed with impunity. My interference is frequently called for, but it is seldom used with any success ; the answer on such occasions almost invariably is, that the ship being chartered, she is not responsible, and that reference must be had to the charterer residing in the United Kingdom.

I may mention what occurred here during the past season in relation to the emigrant tax, as illustrative of the evils arising from the want of authority to enforce the observance of contracts entered into by shipbrokers and masters, and from the want of power to inflict punishment for their violation. The law imposing the tax on emigrants expired on the 1st November, 1838, but nevertheless the tax has been this year levied by the passenger agents in the United Kingdom, and the money obtained from it confided to the ship-masters for payment into the hands of the proper authority in this province ; of course, as no authority existed here to receive it, the right of the emigrant to its repayment became distinct and undeniable in justice ; but I regret to have to report that a great disinclination was manifested by ship-masters and consigners to refund the tax. My efforts on behalf of the emigrants in this matter were only very partially successful ; and in almost every instance ship-masters excused themselves from doing an act of simple justice by restoring property to the rightful owner, by alleging their responsibility to their owners and charterers in the United Kingdom. The few instances in which the tax was refunded were confined to vessels from Scotland and England, exclusive of Liverpool. Paper No. 9, p. 91 of the Appendix, contains a copy of a letter addressed by me to the Chief Secretary in June last, enclosing the opinion of counsel taken in two of the cases under consideration, and to which I have the honour to refer. Those opinions being unfavourable to the pursuit of a legal remedy, my efforts were in consequence limited to urgent personal representations, which in no instance were neglected, and, as I have already remarked, in very few instances were successful.

In submitting my proposed amendment to the 20th clause of the Passenger Act, which will be found at p. 97 of the Appendix, I beg leave to bring under your Lordship's consideration a case which fully proves how completely the Act in its present state defeats the intention of the Legislature. I allude to the case of the passengers in the barque —— ——, —— —— master, from Liverpool, the particulars of which I had the honour of laying before your Excellency in my weekly report of the 18th of July last. At p. 88 of the Appendix will be found an extract from the report, and at pp. 92 and 93 copies of affidavits made and sworn to by the first mate of the ship, and by eight of the passengers, intelligent and respectable farmers. I caused information to be lodged against Captain —— for the infringement of the 6th clause of the Passenger Act. The charge was, in the first instance, brought before the bench of magistrates, but on its having been ascertained that under the Act they had no jurisdiction, it was taken to the Vice-Admiralty Court. The complaint was fully proved by several witnesses, who also testified to the exaction of most exorbitant prices for provisions furnished to them during the voyage ; but it having been established for the defence that the ship had not carried more than one person to every five tons, she became exempt from the operation of the Act by the provisions of the 20th clause, and the suit was dismissed, with the remark, however, from the judge, that were it not for the existence of that clause, he would have been disposed to decree the full amount of the penalty, viz., 20*l.* sterling. The burthen of the ship was 377 tons, while the number of passengers was only 72, being four less than were required to bring her within the Act.

I have added to the several amendments to the other clauses a few brief notes explanatory of the reasons by which I consider they may be supported. To them I beg leave most respectfully to refer your Lordship, and more particularly to the suggestion for the prohibition of the sale of spiritous liquors, which I am sorry to say is very general in that part of our commercial marine employed in the transport of emigrants to those colonies. To the immoderate use of ardent spirits may be attributed the greater number of accidents which occur to emigrant vessels.

It is my duty to inform your Lordship that the various oppressive acts complained of have been, during the past year, the indirect cause of great expense to Her Majesty's Government. Had the means of the emigrant not been subjected to the impositions I have described, on his arrival here he would not have been so likely to require relief ; indeed such relief would rarely have been found necessary, except in cases of sickness, consequent detention in this port, and deprivation of employment.

EXTRACT of a REPORT from Dr. DOUGLAS, Superintendant of Quarantine at Quebec, appended to Lord Sydenham's Despatch, dated 26th December, 1840.

ABSTRACT of Admissions, Discharges, and Deaths at the Quarantine Hospital, Grosse Isle, from May 1st to October 20th.

Description.	Admitted.	Discharged.	Died.	Fever.	Small Pox.	Measles.	Other Diseases.	Total.	Remarks.
Men . .	239	222	17	227	9	..	3	239	About one-fortieth of the whole number of Emigrants.
Women .	157	149	8	151	2	..	4	157	
Children .	165	149	16	107	49	9	..	165	
Total .	561	520	41	485	60	9	7	561	

SIR, Grosse Isle, 20th October.

I BEG to submit, for the information of His Excellency the Governor-General, the above abstract of admissions, discharges, and deaths of emigrants, at the quarantine hospital, for the season ending October 20th, 1840; and in doing so I beg to remark, that by reference to the Table annexed, marked A., it will be seen that the number of sick treated this season at the hospital has been much greater, in proportion to the amount of emigration, than any year since its first establishment, in 1832, (excepting the summer of 1834, when the cholera prevailed extensively in Canada); notwithstanding this greater proportion of sick, the mortality has been on the whole much less, as in number of deaths, 41, is included those who died immediately on arriving at the quarantine station,—feeble old persons and sickly young children, as well as several whose friends, emigrating in a body, were unwilling to be left behind, and made the attempt of accompanying them, though in the last stage of diseased lungs.

The increased degree of sickness this season may be ascribed, in a great measure, to three causes:—

1st. To the greater poverty of the emigrants generally, as compared with former years.

2nd. To the prevalence of small-pox in Great Britain, and its consequent more frequent occurrence in emigrant ships on the passage.

3rd. To the greater average length of the voyages of passenger ships that arrived in the month of August.

The first of these causes applies more particularly to the emigrants embarking at the ports of Liverpool, Dublin, and Cork, but more especially from Liverpool; and this is ascribed, in a great measure, to the means employed to induce the poorer class of Irish labourers to emigrate, who, having previously had little or no intention of so doing, are but indifferently prepared for such a step. These means are the following:—A speculation is carried on by a class of men called passenger brokers, who charter (for a comparatively small sum) a vessel coming out to Quebec for timber; on board of this vessel they agree to put a cargo of passengers within a certain number of days. The sum which the broker contracts to pay the ship-owner for the vessel, frequently averages less than 20*s*. for each adult passenger, stipulating, however, to provide the requisite berth-places and water-casks. Sub-agents are immediately employed by the broker to ferret out the requisite number of passengers to fill the vessel; and, as I am informed that these agents are paid in proportion to the number of passage-tickets disposed of, it may be inferred that no means are left untried to induce people to purchase. The poor credulous labourer is made to believe that the voyage will not occupy more than three weeks, that little provision is necessary, and that on arriving in Canada he will be immediately forwarded up the country, at the expense of Government, to the places where very high wages are readily obtained. By representations of a like nature, hundreds of Irish labourers, with their families, are induced to embark for this country with but a scanty supply of oatmeal and potatoes for the voyage; often with no clothes but what they have on, and a bundle of straw for a bed. It might be supposed that the officers of the customs, whose duty it is, would satisfy themselves that the quantity of provisions required by the Passengers' Act was on board every vessel before giving a clearance. But the extreme difficulty, if not impossibility, of ascertaining by actual measurement the quantity of provisions belonging to each man, woman, and child, in a crowded vessel, has led to the custom of relying for this information, in a great measure, upon the statement of the captain. Now as this person, from not having contracted individually with his passengers, has no means of knowing their circumstances, or at all events has taken but little interest in them, or, as have occurred in one or two instances this season, had only joined the vessel two days before leaving port, and when the passengers were all embarked, it may be inferred that his statement can be but little relied upon, though, like most seamen, he invariably declares that his passengers have a confounded lot of baggage.

Presuming, however, that each passenger has left port with the quantity of provisions required by the Act, yet, as there is no check whatever upon the subsequent expenditure, it invariably happens that after the first few days of sea-sickness have passed, and left them with increased appetites, that great extravagance is carried on; at the expiration of three or four weeks the stock of the more improvident becomes exhausted, and by this time the vessel has, perhaps, made the banks of Newfoundland, and, if in the spring or early summer, the want of warm clothes is felt, and keeps them huddled in the hold, where a neglect of proper ventilation and cleanliness has already produced a vitiated atmosphere, which, breathed by an ill-clad and half-starved people, produces its usual effects—fever, And when once this becomes generated in so favourable a locale for its developement, it spreads with frightful rapidity; the atmosphere becomes charged with febrile miasma, and many of the better fed and clothed passengers, who do not at first take fever, are oppressed with extreme languor and debility from inhaling this tainted atmosphere, and rendered thereby indisposed to the exertion necessary to preserve anything like cleanliness: many cannot be induced to go on deck for the necessary purposes of nature, and in consequence the air becomes daily more unfit for respiration, the disease spreads, and death begins to take place, and the fear caused thereby produces its usual depressing effect in rendering those that yet remain healthy more indifferent to exertion. It frequently happens that the crew or officers of the vessel are the next to suffer; the evil goes on increasing in proportion to the duration of the voyage, until, on the arrival of the vessel at the quarantine station, it resembles a floating pest-house, the fetid exhalations from the hold obliging the pilot and crew to hurry rapidly past the open hatches. On mustering the passengers, it will be found that out of 250 to 300, with which the vessel left port, 12 to 20 have died on the passage, and from 40 to 50 are ill of fever, and require to be sent to hospital; this description may be considered as applicable only to an extreme case, yet during the five years that I have held the office of Medical Superintendent of Quarantine,

there have every year arrived passenger ships to which the foregoing description applies. In the year 1836, the barque ——— left Liverpool with 300 passengers; fever broke out on the passage, from the causes above stated, 13 of the passengers died, and 90 had to be sent to hospital on arriving at Grosse Isle. The following year the ships ——— and ——— from Liverpool, with about 300 passengers each, had fever on the voyage; 17 deaths occurred, and 126 were sent to hospital, including several of the crew. This season the barque —— —— left Liverpool with 302 passengers; disease broke out soon after leaving port, and before arriving at the quarantine station, 15 deaths took place, and 46 (including 9 of the crew) were sent to hospital. The captain of this vessel had joined her only two days before leaving port, and when all the passengers were embarked. The barque ——— left Liverpool this season with 353 passengers; fever and small-pox broke out, 9 of the passengers died, and 35 had to be admitted to hospital.

During the period of my connexion with this establishment, I have had occasion to remark that the greatest number of sick have always been received from vessels that embarked their passengers at Liverpool; and the invariableness of this occurrence has led me to suppose the existence of other causes than the greater degree of poverty of the emigrants coming from that port; for though want of sufficient food and clothing, inattention to ventilation and cleanliness, are quite causes enough to produce disease, wherever masses of people are cooped up in a small space, yet my attention has been drawn to the remarkable fact that not one of the 11 vessels that left Liverpool this season for Quebec, with their full complement of passengers, has arrived at this station without having had sickness and deaths on the passage. I beg to refer to the annexed paper, marked B., for the names of those vessels, the number of sick, &c. This constant occurrence of disease led me to believe that in some instances fever must have been brought on board from the lodging-houses occupied by the passengers before embarking.

I have met with a full confirmation of this opinion within these few days in a paper on the moral economy of large towns, wherein the writer, Dr. M. C. Taylor, in describing the abodes of the Irish labourers in Liverpool, remarks:—"The lodging-house, crowded with three or four families, was an abomination, but the lodging cellar, the under-ground cave, in which drainage, light, and ventilation were utterly unattainable, where every drop of moisture that sunk into the earthen floor fermented into contagion, and where every exhalation from animate to inanimate bodies rolled in volumes of pestilential mist round the apology for ceiling, without being able to find a vent, presented an accumulation of horrors, such as no one, without personal examination, could believe to exist in a civilized community;" and with reference to the number of labourers occupying these places, he remarks, that "it is a perplexing problem to discover how so many persons, as are found to reside in one of the cellars, can find space to lay down. It would far transcend the power of words to describe the horrors of these dens; and it can scarcely be necessary to dwell upon the fact, that malignant diseases are perpetually generated in them." From these places do emigrants embark on board of the vessels, bringing with them in their foul clothes and bedding the seeds of disease, which becomes rapidly developed in so favourable a situation as the hold of a ship. Many passenger ships from Liverpool also bring out part cargo in the lower hold, by this means narrowing the space allotted to the emigrants, whose provisions and baggage are usually stowed in this place when the vessel comes out in ballast.

The second cause of the greater number of sick this season among emigrants has been the more frequent occurrence of the small-pox in passenger ships, and this may be attributed to its great prevalence in England last year: to such an extent did this disease prevail, that by the returns of the General Register Office, April 14, 1840, it appears that the number of deaths by it alone for the year ending 31st December, 1839, amounted to 8,541. It has been proved, that the continued existence of this disgusting disease is owing, in a great measure, to the revived custom of inoculating for small-pox, which, it is hoped, the Bill introduced to the House of Commons March 10th will have the effect of checking, and by this means removing before another season one of the great causes of disease and death among emigrants in their transit to this country. A reference to the paper marked (C) will give the names of vessels on board of which small-pox occurred this year.

It has been generally found that when this disease has existed for some time in the crowded emigrant ship, that fever likewise appears, and affects those of the passengers who, from having already had small-pox, are not exposed to its attack. This is no doubt owing to the contaminated effluvia from the persons and clothes of the sick, and from which there is no escape.

The other cause of the increased sickness this season has been the unusual length of the passages of emigrant vessels during the latter months of the summer. This was owing, in almost every instance, to the unprecedented continuance of light westerly winds, which detained vessels for weeks in the gulf and mouth of the St. Lawrence, where the currents at that season run constantly to the eastward. On reference to a journal of the weather, I find, that from the 2d of July to the 26th August, a period of 56 days, the wind prevailed constantly from the west, without an intermission of six hours. The number of vessels that have thus suffered from the length of the voyage was 14. The names, duration of passage, I have added in a paper marked (D). Most of these were under the necessity of running into ports in Newfoundland, Cape Breton, Gaspe, and the parishes on the south shore, previous to their being able to make these ports; however, the greatest distress prevailed among the passengers. Whole families were obliged to subsist for days upon a few ounces of biscuit; and the various means adopted by them to allay the pangs of hunger, such as swallowing salt water, &c., but tended in most instances to aggravate the evil. Infants at the breast and young children from requiring an almost constant supply of nutriment, suffered the most severely, and the mortality and sickness among them was proportionably greater. Though a great number had to be admitted to hospital, yet few deaths took place, and those cases only where organic disease existed.

Colonial Land and Emigration Office,
9, Park Street, Westminster,
January 19, 1842.

Sir,

With reference to our Report of the 22nd July last, on the subject of the amendments which might be made in the Passengers' Act, we have the honour to state, for Lord Stanley's information, that we have taken advantage of the recess to set forth more fully, and in greater detail, the grounds on which we had framed the several changes recommended in the Report in question, besides making some additions that seemed to have become necessary. We beg leave to enclose herewith an amended statement of the heads of the Bill, as we should now propose them, accompanied by the reasons for each alteration; and we would request that this enclosure may be substituted for that which accompanied our Report of the 22nd July; but we would at the same time beg to refer to that Report itself for all the more general views that we have to submit on the subject.

The most important addition which will be found in the amendments as at present proposed consists in the extension which we have attempted to give to the provisions of the Act, to the conveyance of passengers from any portion of Her Majesty's dominions. As Lord Stanley is aware, the present Act applies exclusively to voyages from the United Kingdom; but when the labourers in some of the West Indian colonies were found to be removing from the colonies to which they belonged, the whole Act was extended to the West Indian colonies by the 3rd and 4th Vict. c. 21, with the reservation of certain necessary powers to the governors and the local legislatures. The contemplated repeal of the present Passengers' Act would appear to require some further enactment in regard to the West Indies, either extending the amended Act in like manner as the one by which it was preceded, or else rendering it in itself applicable as far as possible to all voyages, whether long or short, and from all the colonial possessions of Her Majesty, as well as from the United Kingdom. It is this latter course which we have endeavoured to adopt, though fully aware of the difficulties necessarily inherent in it. The Passengers' Act, in any form in which it has been hitherto passed, is essentially intended to meet the case of long voyages, where large numbers of passengers are placed on board the same ship. To make it applicable to inter-colonial voyages, of which the duration may not exceed a few days, and where but a few passengers may be taken, many of the provisions require to be modified or excepted, as being inapplicable to the circumstances of the case, or as being too onerous upon the parties connected with the vessel, or as requiring machinery which might not exist in distant places. These modifications and exceptions we have endeavoured to make in the document herewith enclosed. The question occurred to us, whether the regulations necessary for this purpose, should be incorporated into an extension Act, such as exists at present. And we also adverted to the other distinction that might be taken, by rendering the general Act applicable to all long voyages, whether direct from the United Kingdom, or inter-colonial, and by passing a separate measure for such shorter passages as it should be deemed necessary to regulate by law. But on the whole, we adopted the form in which we have now submitted our suggestions, conceiving that it would be convenient and advantageous that there should be but one Passengers' Act, and that the same Act should contain within itself all the regulations which the imperial legislature deemed it expedient to impose upon the conveyance by sea, of the poorer classes of Her Majesty's subjects.

We have the honour to be, Sir,

Your obedient, humble servants,

T. FREDERICK ELLIOT.
EDWARD E. VILLIERS.
JOHN GEORGE SHAW LEFEVRE.

James Stephen, Esq.
&c. &c. &c.

NOTES

ON

AMENDMENTS OF PASSENGERS' ACT,

To accompany Commissioners' Report of 24th July, 1841.

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Clauses of the present Act.

Proposed Amendments and Explanatory Remarks.

Section 1. The present Act relating to the carriage of passengers, 5 and 6 Will. IV., c. 53, together with the Act 3 and 4 Vic., c. 21, by which it was extended to the West Indies, to be repealed, except in so far as the former repealed the 9 Geo. IV., c. 21; and except also as to penalties incurred, and to rights of action which may have accrued, under either of the existing statutes.

I. Whereas it is expedient to make provision respecting the Carriage of Passengers from the United Kingdom to distant countries, and for that purpose to repeal a certain Act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An Act to regulate the Carriage of Passengers in Merchant Vessels from the United Kingdom to the Continent and Islands of North America:" Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the said recited Act shall be, and the same is hereby repealed: provided, nevertheless, that all fines, forfeitures, and penalties to which any person or persons may have become liable under the said Act, shall and may be sued for, prosecuted, and recovered; and that any right of action which may have accrued to any person or persons by virtue of the said Act shall and may be enforced hereafter in such and the same manner in all respects as if this present Act had not been made.

Instead of "expedient to make provision respecting the carriage of passengers from the United Kingdom to distant countries," say "carriage of passengers by sea in certain cases."

Note.—The above alteration is merely to render the language suitable to a more extensive use of the Act, which has in some cases become applicable, by special enactment, to shorter voyages, such as those between the different West India colonies.

II. And be it further enacted, That no ship carrying passengers from any port or place in the United Kingdom, or in the islands of Guernsey, Jersey, Alderney, Sark, or Man, on any voyage to or for any port or place out of Europe, and not being within the Mediterranean Sea, shall proceed on her voyage with more persons on board than in the proportion of three persons for every five tons of the registered burthen of such ship, the master and crew being included in and forming a part of such prescribed number; and that no such ship having more than one deck shall carry any passengers upon any such voyage as aforesaid, unless she shall be of the height of five feet and a half at the least between decks; and that no such ship having only one deck shall carry any passengers upon any such voyage as aforesaid unless a platform shall be laid beneath such deck in such a manner as to afford a space of the height of at least five feet and a half, and that no such ship shall have more than two tiers of berths; and that no ship having two tiers of berths shall carry any passengers on any such voyage as aforesaid unless there shall be an interval of six inches at the least between the deck or platform and the floor of the lower tier throughout the whole extent thereof; Provided always, that whatever may be the tonnage of the ship, no greater number of persons as passengers shall be taken on board than shall be after the rate of one such person for every ten superficial feet of the lower deck or platform unoccupied by goods or stores, not being the personal luggage of such persons, if such ship shall not have to pass the line on her voyage, or after the rate of one such person for every 15 such clear superficial feet if such ship shall have to pass the line.

Clause II. of the present Act should be divided into four separate clauses:—

1. The number of passengers in proportion to the tons, and in proportion to the superficial measurement of the space allotted for their use.
2. The construction of the lower deck.
3. The height between decks; and
4. The sleeping-berths.

Note.—The reason for dividing the clause is, that at present it comprises subjects of quite a distinct nature, and thereby is less readily intelligible.

Section 2. The number of passengers shall not exceed one to every two tons register tonnage, but not including the crew.

Note.—This is the proportion suggested in Mr. Buchanan's Report from Quebec for the year 1840, being one of the suggestions in which Lord Sydenham expressed his concurrence. The same proportion has been sanctioned by the opinion of the most experienced officers of emigration in this country. In the existing Act, the proportion is three persons to every five tons. The evils which have occurred under the rule as it at present stands, have been matter of frequent representation from official and other sources.

The crew (which never was included in the comparison with space) is now omitted in the comparison with tonnage also, because it is far simpler to make all the computations in the Act relate exclusively to the passengers. Leaving out the crew will of course deduct somewhat from the effect of the increased proportion of tonnage required by the proposed change. But this abatement will be more than counterbalanced by the important alteration in Clause 13 of the present Act, as to the mode of reckoning children.

It may be observed, that in the United States, only two passengers to every five tons are allowed; but there are not the same reasons in that country as in Great Britain for consulting economy in migration by sea to the utmost extent compatible with safety.

On the whole, after carefully estimating the influence on the one hand of the omission of the crew, and of the prevalence of the new measurement, which gives the same ship a larger tonnage than the old; and, on the other hand, the effect of the alteration as to children, it is believed that the best and fairest modification of the Act is to adopt the rule of one passenger to two tons.

Section 2 (*continued*). But whatever may be the tonnage, the number of passengers shall not exceed the following proportions to the space of the lower deck occupied by them, and appropriated for their use. In ships which have not to pass within the tropics, one passenger for every 10 superficial feet; in ships which have to pass within the tropics, but of which the computed voyage does

Clauses of the present Act. *Proposed Amendments and Explanatory Remarks.*

not amount to more than 12 weeks, one passenger for every 12 superficial feet; in all other ships, one passenger for every 15 superficial feet. This proportion between the passengers and space shall be preserved in each separate compartment of the lower deck which may be occupied by passengers. On any other than the lower deck, no passengers other than cabin passengers shall be carried, except with the written approval of the Government Emigration Agent, at ports where there is one, or else the collector or comptroller of the customs; and in every such case the proportion of space to passengers shall be double that required on the lower deck.

Note.—Some important modifications are introduced into this part of the clause.

The present Act distinguishes only between ships which have to pass the line or not. It is proposed that the distinction should be, whether or not they enter within the tropics. This seems in itself to be the more proper distinction, and the recent growth of emigration to the West Indies makes the alteration a matter of practical importance.

But then another consideration has to be taken into account, viz., the length of the voyage. The Act at present requires 10 superficial feet to each passenger in ships that do not pass the line, and 15 feet in ships that do pass the line. The former space is too small in any ship that has to enter within the tropics, while yet, if the voyage is of moderate length, the latter would be superfluous, and unnecessarily enhance the cost of passage. Again, in the longest description of voyages, the largest allowance of space appears proper, irrespective of any question of climate.

It is proposed then, in voyages which are not computed to exceed 12 weeks, that 10 feet shall be required for those which do not enter within the tropics, and 12 feet for those which do enter within them, and that in all voyages of more than 12 weeks, the space shall be 15 feet. This will retain as to North America, and to Australia, respectively the same number of feet for each passage as at present. On the other hand it will introduce, for the voyage to the West Indies, 12 superficial feet, which is the proportion that has been recommended by Lieutenant Lean, R.N., the Government Emigration Agent at the port of London, whose experience peculiarly qualifies him to offer an opinion on this point.

By the existing Act, the proportion is only stated between the whole number of passengers and the whole size of the lower deck; and, consequently, if an undue space be allotted to cabin and other passengers, the humblest class of passengers may be overcrowded in the remaining space, to an unlimited degree. It is proposed, that henceforth the comparison should be between the passengers and the space in the part of the ship which they actually occupy. It may be observed, that even the present Act directs that the comparison be made between the passengers and the portion of the lower deck, "unoccupied by goods or stores;" and it seems obviously reasonable to require that it should be equally unoccupied in any other manner.

The last proviso in this part of the proposed clause is intended to regulate the case of steerage passengers who may be carried under the poop, or may be taken on the orlop deck in large vessels having two decks. Examples of both have occurred since emigration to Australia has become so extensive; and in certain instances the practice is unobjectionable, but is so liable to abuse, if the power of resorting to it be unlimited, that it seems almost an indispensable precaution to make it contingent on the approval of the proper Government officer.

Section 2 (*concluded.*) For each passenger carried beyond the number hereby allowed, there shall be paid a penalty of 5*l.*

Note.—This is an important addition that has been much called for. It is plain that offences of this nature, where the profit increases with each increase of the offence, can only be adequately met by a penalty per head. The same rate of 5*l.* here proposed, has been also recommended by the Commissioners of Customs. Overcrowding is one of the worst evils against which the Act is directed.

Section 3. No vessel shall carry passengers, unless she have a lower deck, or platform, either over or level with the top of the lower beams, and properly secured to the same; and such lower deck, or platform, shall be of not less than 1½ inch in thickness.

Note.—This clause is in the first place intended to guard against a practice, which has arisen, of laying the lower deck below the lower beams, so as to keep between the two decks the interval required by law, but yet to expose the passengers to great inconvenience by the projection of the beams above the lower one. An incidental advantage will be, that the rule will afford the means of insisting on the existence of lower beams. From Ireland, passengers have sometimes been taken in a very objectionable class of small vessels, which had no lower beams at all.

Clauses of the present Act.

Proposed Amendments and Explanatory Remarks.

It is new to specify the smallest thickness of the plank to be employed for the lower deck or platform. The object is to guard against insufficient strength in that respect.

Section 4. The height between decks shall be not less than six feet from deck to deck.

Note.—The existing rule requires 5½ feet between the decks. There has been a general opinion that this is too little. Mr. Buchanan remarks in his Report for 1840, that it should be 5½ feet from beam to beam, and the same has been the opinion of the officers of Emigration in this country. Security having been taken in the preceding clause against the projection of the lower beams, it is unnecessary to regulate the height between the beams, but it is proposed at once to require 6 feet from deck to deck.

Section 5. Regulation of sleeping-berths to remain as at present, except that the interval of 6 inches under the lower berths should not be limited to ships having two tiers of berths.

Note.—The wording of the present clause would seem only to require an interval between the lower berths, in case there should be a double tier of berths; a limitation which could not be intended.

III. And be it further enacted, That no ship carrying passengers on any such voyage as aforesaid shall be cleared out for such voyage from any port in the United Kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, unless and until there shall be actually laden and on board such ship good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount, or in the proportion following: that is to say, a supply of pure water to the amount of Five gallons to every week of the computed voyage for every passenger on board such ship, such water being carried in tanks or sweet casks, and a supply of bread, biscuit, oatmeal, or bread stuffs to the amount of Seven pounds weight, to every week of the computed voyage for every such passenger: Provided always, that to the extent of one-third of such supply, and no more, Seven pounds weight of potatoes may be deemed and computed to be equivalent to One pound weight of bread, biscuit, oatmeal, or bread stuffs in the supply of any ship bound to some place in North America: Provided also, that when any ship shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water, a supply of water at the rate before mentioned for every week of the computed voyage to such port or place of calling shall be deemed to be a compliance with the provisions of this Act.

Section 6. On board every ship carrying passengers, there shall be issued to them daily for each passenger, a supply of water at the rate of at least five gallons per week, and there shall also be issued at convenient times, not less often than once a-week, a supply of provisions after the rate of 7 lbs. of bread, biscuit, flour, oatmeal, rice, or any other bread stuffs per week, provided that two-thirds at least of the supply shall consist of bread or biscuit, and that potatoes may be employed on every voyage not exceeding 12 weeks, to the extent of the remaining third of the supply, seven pounds, however, of potatoes being computed as equal to one pound of the other articles above enumerated. And no ship shall be cleared out until there shall be laden and on board such quantity of pure water, and of good and wholesome provisions of the requisite kind, as shall be sufficient to allow of the issue aforesaid.

Note.—This rule, in the place of that which allows the passengers an option of victualling themselves, is a very important alteration, and perhaps, more certain good may be hoped from it than from any other change proposed in the law:—

1st. It will render it easier to ascertain that the proper quantity of provisions is on board at starting.

2ndly. It will guard against waste during the voyage.

3rdly. It will prevent the imposition and extortion so frequently practised upon the passengers, who from the exhaustion of their own supply during the voyage, are compelled to purchase provisions from the master; and,

4thly. It will have the great advantage of causing the passengers to receive the main part of their subsistence during their detention at any intermediate port into which the ship may put by reason of distress, or from any other cause, instead of their consuming their own sea stock, and thus, perhaps, becoming unable to complete the voyage to their destination. This will also afford a remedy against the frauds which have been practised, by ships putting into different ports from those for which they advertized; as for example, St. John's, New Brunswick, instead of New York. The passengers have found themselves obliged to consent to land, from not having the means of subsistence. They would, under the proposed clause, be able to claim the essential part of their maintenance from the ship, and thus remain by her until she should take them on to their proper destination.

The list of food is the same that is laid down in the present Act as indispensable. Mr. Buchanan recommended 5 lbs. of biscuit per week, which would not come up to that standard. The list now proposed, as it includes, for instance, no article of animal food, is far from being all which it is desirable the passengers should have; but it is what has been assumed by former enactments to be the quantity actually essential for life, and everything else is left to the free action of individuals according to their circumstances.

In the enumeration of bread-stuffs, "flour," and "rice," are new. There will probably be no doubt of the benefit of an option of mixing those articles amongst the other allowances of similar kind. The rule as to potatoes is left as it stands in the present Act. Seven pounds of potatoes are unquestionably in themselves much more than equivalent to one pound of the other bread-stuffs, but the stock is peculiarly liable to contain some that are bad at starting, and also to be injured or spoilt on the voyage.

Section 7. The water shall be carried in tanks or sweet casks, such casks not to exceed 300 gallons. When any ship shall be destined to call at an intermediate port for the purpose of filling up her water, she may start with only a proper supply of water for the computed length of the voyage to such inter-

Clauses of the present Act.

Proposed Amendments and Explanatory Remarks.

mediate port, provided it be with the written approval of the government agent for emigration at ports where there is one, or else the collector or comptroller of the customs, and that the engagement to touch at such intermediate port be inserted in the bond which is hereinafter required to be given by the master to the Crown: And provided also that if the remaining part of the voyage after the intermediate port be the longest, such ship shall have on board at least a sufficient number of water-casks for that larger portion of the voyage.

Note. The limitation in the size of the water-casks is represented by the emigration officers at the two largest ports, to be very desirable, and not objectionable to any well-managed ship.

The permission of watering only to an intermediate port is adopted from the end of Clause III of the existing Act, but it should not be used except in special cases, and therefore a discretion on the subject is now proposed to be confided to the proper Government officer, who, moreover, by this provision will have the power of judging of the duration to be estimated for the voyage from the intermediate to the final port, which of course cannot be laid down in the Act. To prevent evasion in so important a provision, the engagement to touch at the intermediate port to water is proposed to be inserted in the bond given by the master to the Crown. Respecting the whole quantity of casks to be on board in such cases, a new proviso is added, which is obviously essential to secure the due fulfilment of the intentions and provisions of the Act.

IV. And be it further enacted, That the number of weeks deemed to be necessary for the voyage of any ship, according to her destination, shall be determined by the following rule of computation; that is to say,

For a voyage to North America, ten weeks;

For a voyage to South America on the Atlantic Ocean, or to the West Coast of Africa, twelve weeks.

For a voyage to the Cape of Good Hope, fifteen weeks;

For a voyage to the Mauritius, eighteen weeks;

For any other voyage, twenty-four weeks.

XXI. And be it further enacted and declared, That the Bahama Islands, and all places in America southward of the same, shall be deemed to be in South America for the purposes of this Act.

Section 8. The computed length of voyages :—

To North America, 10 weeks;

To the West Indies, including the Bahamas and British Guiana, 10 weeks;

To any ports on the continent of Central or South America, (except British Guiana,) if situated on the Atlantic Ocean, 12 weeks;

To the West Coast of Africa, 12 weeks;

To the Cape of Good Hope, and to the Falkland Islands, 15 weeks;

To the Mauritius, 18 weeks;

To Western Australia, 20 weeks;

To the other Australian Colonies, 22 weeks;

To New Zealand, and to all other places eastward of the Cape of Good Hope, 24 weeks.

Note.—In the existing Act, the voyage to the West Indies is merged in the general statement of voyages to South America, and computed at 12 weeks, which appears decidedly more than sufficient. It is here computed at 10 weeks.

The voyage to the Falkland Islands requires to be inserted, on account of the formation of a government there.

The voyages to the Australian colonies have hitherto fallen under the general head of "For any other voyage 24 weeks." But the great emigration that has now sprung up to those settlements calls for some discrimination; and experience has proved that for all of them the period above named is too long. It is proposed to allow 20 weeks to Western Australia, 22 to the other Australian settlements, and 24 to New Zealand.

The several foregoing periods are proposed upon the best means of information, accessible in the Land and Emigration Office.

XIII. Provided always, and be it further enacted and declared, that for the purpose and within the meaning of this Act, two children, each being under the age of fourteen years, but above the age of seven years, or three children, each being under the age of seven years, shall in all cases be computed as one person only; and that children under the age of twelve months shall not be included in the computation of the number of persons.

Section 9. All children under 14, without distinction, and including infants, to be reckoned at two to one adult.

Note.—The rule at present is, that two children be tween 7 and 14, and three between 1 and 7, are to reckon as equal to one adult, and that infants of less than 12 months of age, are not to be reckoned at all. A change in this respect is much demanded. So many distinctions of age are complicated in practice, and are found to give rise to deception. The difficulty they have always occasioned at Quebec, is more than once alluded to by Mr. Buchanan, and he expresses a wish that every soul on board could be reckoned as one passenger, without distinction of age; but so great an alteration would require the whole framework of the Act to be broken up. On the other hand, that three children under seven years of age, and still more four children, which the present Act would admit of, if one were under 12 months, require more space and air than a single adult, will hardly be questioned, and in the very moderate amount of provisions required by the Passengers' Act, it will be of little consequence, that of the youngest class of children, two should henceforward be entitled to the allowance which used to serve three. As to infants under 12 months of age, to omit them from the account, would continue the temptations to fraud, and prolong the complexities that have heretofore been complained of. Such are the grounds of the proposed change. Without any material disturbance of former calculations, it will simplify the working of the Act, diminish the occasions of deception, and also, it is hoped, increase the means of preserving health.

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V. And be it further enacted, That before any such ship shall be cleared out for the voyage, the officers of the Customs shall survey, or cause to be surveyed, by some competent person, the provisions and water herein-before required for the consumption of the passengers, and shall ascertain that the same are in a sweet and good condition, and shall also ascertain that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship; and such officers shall also ascertain that the directions hereinbefore contained in respect of the situations of berths have been complied with.

VI. And be it further enacted, That the master of every such ship shall cause a table to be drawn up of the respective prices at which any provisions, or stores, that may be sold by any person on board to any of the passengers, during the voyage, are to be supplied; and that a copy of the same, printed or written in a fair and legible manner, shall be affixed in some convenient and conspicuous place on board the said ship for the perusal of all parties, and that the same shall be maintained for continual reference, as well during the period in which passengers shall be engaged, as during the whole of the voyage; and that no higher prices than are stated in such table, shall in any case be charged for such provisions, or stores, as may be so supplied during the voyage: provided, nevertheless, that nothing herein contained shall be construed as requiring the master of any ship to provide provisions or stores, for the purpose of sale to any passengers who may have contracted to victual themselves during the voyage.

VII. And be it further enacted, That if doubts shall arise whether any ship about to proceed with passengers, as aforesaid, is seaworthy, so as to be fit for her intended voyage, and such doubts shall not be removed to the satisfaction of the collector and comptroller of the customs at the port from which such vessel is to be cleared out, it shall be lawful for such collector and comptroller, at any time to cause such ship to be surveyed by two competent persons; and if it shall be reported by those persons, that such ship is not in their opinion seaworthy with reference to such voyage, such ship shall not be cleared out unless the contents of such report be disproved to the satisfaction of the Commissioners of the Customs, or until such ship shall have been rendered seaworthy.

VIII. And be it further enacted, that two copies of this Act, or abstracts of the same, made, provided, and issued by the authority of the Commissioners of the Customs, and authenticated by the signature of the collector or comptroller of the customs at the port of clearance of the ship, shall be delivered to the master, on demand, by such collector or comptroller at the time of clearance, and shall be kept on board every ship proceeding with passengers

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Section 10. To provide for the inspection of the provisions and water, before the vessels sail.

It is proposed to insert in this clause "the government emigration agent, at ports where there is such an officer, or," before the words "officers of customs." At the conclusion of the clause, also it is proposed to prefix to "situations of berths," the following words, "proportion of passengers to the tonnage of the vessel, and to the space allotted for their use, as well as in respect of the construction of the lower deck, and the height between decks."

Note.—As regards the first alteration, it is to be observed that when the existing enactments were framed, there were no government emigration agents: it is now proposed to insert the name of those officers in most of the clauses in which mention is made of the collector of customs. As regards the second, the clause, as it at present stands, requires the proper officers only to ascertain that the provision in respect to berthing has been complied with. But it is desirable to recapitulate all the provisions of the preceding clauses, which the same officers are required to give effect to.

N.B.—The next enactment in the present law, is Clause VII., requiring a table to be exhibited in each ship, of the prices of provisions on board. Now that the ship must find the principal supplies, this clause appears unnecessary. It has so readily admitted of evasion as to be inoperative.

Section 11. To secure seaworthiness of the ship. In this clause it is proposed as before to insert the name of the government emigration agent, before that of the collector of customs; secondly, to express that the survey of the ship, where called for, shall be made at the expense of the owner or charterer; and thirdly, to require that the report of the unseaworthiness of a vessel, shall be disproved to the satisfaction of the Colonial Land and Emigration Commissioners, in those cases where the report shall have proceeded from a government emigration agent.

Note.—Doubts have occasionally arisen as to the party upon whom the expense of the survey should fall, but as it virtually must fall upon the owners or charterers, inasmuch as they cannot otherwise obtain a clearance for the ship, it has been thought better at once to express it.

Section 12. All vessels carrying passengers, shall be provided with good boats after the following rates; to each ship of from 150 to 250 tons, two boats; each ship from 250 to 500 tons, three boats; each ship above 500 tons, four boats.

Note.—This is a new clause. What it requires is moderate. In case of shipwreck, or loss by fire, or other causes, a proper supply of boats may make the most important difference in the saving of human life, where so many people are on board the same ship.

Section 13. Copies or abstracts of the Act to be kept on board for the perusal of the passenger. The Commissioners of Land and Emigration, may make an abstract of the Act, and the collector or comptroller of the customs shall deliver, on demand, two or more copies of such abstract to the master, or if no abstract have been made, two copies of the Act, authenticated in the manner directed by the present clause, and the master shall paste them up in some conspicuous part of the place in which the steerage passengers live.

Note.—By the existing clause, the master is only required to produce the Act to any passenger for his perusal, when such passenger shall, at seasonable times, request to see it.

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as aforesaid, and that one of such copies or abstracts shall, upon request made at seasonable times to the master of the ship, be produced to any passenger for his perusal.

IX. And be it further enacted, That no ship carrying passengers in any such voyage as aforesaid to any such port or place as aforesaid, except any port or place in North America, if the number of such passengers shall amount to or exceed One hundred, shall clear out for such voyage from any port in the United Kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, unless there shall be rated upon the ship's company, and shall be actually serving on board such ship, some person duly authorized by law to practise in this kingdom as a physician or surgeon or apothecary; and that no such ship shall actually put to sea or proceed on such voyage unless such medical practitioner shall be therein, and shall *bonâ fide* proceed on such voyage, taking with him a medicine chest and a proper supply of medicines, instruments, and other things suitable to the intended voyage: and no ship carrying passengers under the provisions of this Act shall clear out for any voyage from any such port as aforesaid unless and until there shall be actually laden and on board such ship medicines and other things necessary for the medical treatmeat of the passengers on board during such intended voyage, and available for that purpose, nor unless such medicines and other things shall be adequate in amount and kind to the probable exigencies of any such voyage; and, together with such medicines and other things, shall also be put on board every such ship previously to her clearing out for any such voyage as aforesaid a certificate, under the hands of any two or more such medical practitioners as aforesaid, to the effect that such medicines and other things have been inspected by them, and are, in their judgment adequate to meet any such probable exigencies as aforesaid.

X. And be it further enacted, That no ship carrying passengers to any place as aforesaid shall be cleared out if there shall be laden on board such ship by way of store, over and above the stores proper for the crew of such ship, any quantity of spirits or strong waters beyond one-tenth part of such quantity as would, except for this restriction, be allowed by the officers of the customs upon the victualling bill of such ship for the outward voyage only, according to the number of persons going the voyage.

XI. And be it further enacted, That the master of every ship carrying passengers on any such voyage as aforesaid shall, before clearing out his said ship for such voyage from any port or place in the United Kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, deliver to the col-

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It appears desirable that greater facilities should be afforded to the passengers for becoming acquainted with the provisions of the Act.

Section 14. In all voyages, excepting that to North America, not exceeding 12 weeks in duration, no ship shall carry so many as 100 passengers without having a duly qualified medical practitioner on board; and in all voyages which do exceed 12 weeks in duration, no ship shall carry so many as 50 passengers without having such practitioner on board; and no ship shall clear out under this Act at all without having on board a medicine chest.

Note.—The exception of North America is made in the existing law, and is continued here for the reasons which are stated in the body of the Commissioners' Report, dated 22nd July, 1841.

In all other cases the existing Act only requires a surgeon if the ship carries 100 passengers, but for voyages exceeding 12 weeks, and especially so long a voyage as that to Australia, it does not seem expedient that a number amounting to 50 people should sail without a surgeon. This is a point on which the duration of the voyage bears most materially. It is during the latter part of the passage, when salt provisions have long been in use, and the passengers' spirits are more likely to be depressed, that sickness may be most apprehended.

The provisions on the subject of a medicine chest will stand as at present.

Section 15. Prohibits the sale of spirits on board to all but cabin passengers. Enacts that none be allowed on board by way of stores beyond the store proper for the crew and the cabin passengers, or any moderate quantity which may be included amongst the medical comforts, and be placed under the control of a surgeon duly appointed according to the terms of the Act. The penalty for the sale of spirits to be not less than 50*l.*, nor more than 200*l.*

Note.—Mr. Buchanan says in his Report for 1840, "The present disgraceful practice of selling spirituous liquors to passengers is the frightful source of disease and want." The first part of the proposed enactment prohibits such sales; the second takes an additional security by limiting the whole quantity of spirits put on board by way of stores. The exception as to medical comforts is made on account of spirits occasionally forming part of the medical comforts; but it is proposed only to admit it in cases where a surgeon shall have been appointed, in whose keeping the spirits will be placed.

If the proposed section be adopted, it should stand in lieu of the present Clause X., which apparently has the same object, but does not provide for it quite so directly and positively. The marginal note to that clause speaks of it as prohibiting the export of spirits as merchandise, but this is not the real effect of the enactment.

Section 16. A list of the passengers in duplicate, according to the form in the Schedule, to be delivered by the master before clearing out to the collector of customs, and one copy of the same to be returned to him with the collector's signature, which list he is to exhibit to the proper authority at each place where any passengers land, and to deposit with such authority at the final place of disembarkation.

Same as present Clause XI.

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lector or other principal officer of His Majesty's customs at such port or place a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and professions or occupations of all and every the passengers on board such ship, with the name of the port or place at which he the said master hath contracted to land each of the said passengers; and such collector or other chief officer of customs shall thereupon deliver to the said master a counterpart of such list signed by him the said collector or other chief officer as aforesaid; and the said master shall exhibit the said counterpart of his said list to the collector or other chief officers of His Majesty's customs at any port or place in His Majesty's possessions, or to His Majesty's consul at any foreign port at which the said passengers or any of them shall be landed, and shall deposit the same with such collector or chief officer of customs, or such consul, as the case may be, at his final port of discharge in the said possessions.

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Section 17. If after a vessel has been cleared out with a number of passengers short of that which is allowed by this Act, additional passengers are taken on board, a separate and additional list of them is to be prepared and proceeded with in exactly the same manner as the original list, if there be a custom-house at the place, or if not, to be signed by the master; but also to be subsequently proceeded with as above if the ship goes into a port with a custom-house before finally proceeding on her voyage, and to be at any rate produced to the proper authority at each port abroad where any emigrants may land, in the same manner as required by the preceding enactment.

Note.—This is a new clause. The most usual cause perhaps of the overcrowding of emigrant ships, is the reception of an excessive number of passengers after the vessel has quitted the place from which she is cleared out. In proceeding down the rivers, or out of the deep estuaries on which so many of the principal ports are situated, it is obvious how numerous are the facilities and temptations to this practice. The object of the proposed section is to compel the master to give as strict an account of the passengers he takes on board after being cleared out as of those he takes on board before.

Section 18. No owner, charterer, master, broker, or agent, shall receive any money for a steerage-passage without giving a written acknowledgment for the same in the form contained in the Schedule to this Act.

Note.—This form will set forth the following particulars:—the name of the ship, the port where the passenger is to embark, the port where he is to be landed, and the appointed day for sailing. In signing this acknowledgment, the party will be required to affix to his signature the capacity in which he receives the money, such as owner, charterer, master, broker, or agent, as the case may be; and if as broker or agent, he will have to add the name of the party on whose behalf he is acting.

The clause is a new one. The object is to guard against a great variety of frauds that have been experienced in practice. One common trick is to get money for passages by an early or favourite ship; but when the emigrants arrive at the port the ship is declared to be full, and the party kept waiting for any opportunity that may best suit the passage broker, consuming in the meanwhile all his substance. Again, the Act provides subsistence-money in certain cases for detention after the time appointed for a ship to sail; but, in point of fact, the time has commonly not been fixed with sufficient exactness to meet the objects of the law, or to be a matter of legal evidence. But the great difficulty of all is to bring responsibility home to the only parties within reach at the time when the evil occurs. For instance, some agent in the interior of Ireland takes money for a passage by a particular ship from Liverpool; when the emigrant reaches Liverpool he discovers that the ship is full, or perhaps that she had sailed a month before, (in some cases that no such ship exists:) upon his complaining, the party at Liverpool disavows the act of the one in Ireland, ascribes it to some mistake of the latter, there is no evidence of the connexion between them; and at last having abandoned his home and wasted his means, the emigrant is reduced to feel it a favour that he can obtain any passage at all in return for his money. This is an evil with which, grievous as it is, it is unfortunately most difficult to contend. The object of the proposed enactment is to compel a written contract in every case, and to provide some clue, at least, to the principal parties concerned. Some of the evasions that have been pointed out will be sufficiently met by the mere existence of the contract. Thus it will ensure evidence of the day from which the passenger is entitled either to be received on board or maintained. It will also identify the ship by which he stipulates to be conveyed. But it never can alone afford proof of a delegation of authority to the person professing to sign it as agent for another; nor, consequently, establish the desirable responsibility at the seaport itself. All that can be said is, that being useful and necessary for other purposes, it may be hoped that, with the aid of the measure which will be next proposed of requiring passage-brokers to be licensed, it may conduce also towards the important end of proving agency.

Section 19. All persons who in any way engage in the business of letting passages to North America, not being themselves the owners or charterers of the ship, shall take out licences as passage-brokers, such licences to be subject to forfeiture for misconduct.

Note.—The detail of any arrangements for this purpose can only be considered satisfactorily by persons possessed of legal knowledge. From every quarter, however, the difficulty of contending with the numerous kinds of frauds which are practised, is represented as so great, that a power of removing improper persons from the business would appear the only chance of improvement. The note to the preceding section may be referred to for an idea of the nature of the deceptions to which the poorer class of emigrants are exposed, and of the reasons for endeavouring to secure the means of knowing the parties who act as passage brokers, and of tracing their connection with their employers.

Clauses of the present Act.

Proposed Amendments and Explanatory Remarks.

Section 20. No broker or agent shall receive money for a passage without having written authority to act as agent for the party on whose behalf he states the contract to be made, on pain of forfeiting his licence, and further of being subject to return the money paid, and make compensation, as hereinafter provided.

Note.—This section is in further execution of the endeavour to secure proof of agency, for the reasons explained in the notes to the two previous sections.

The proposal is limited to North America, in order not to interfere needlessly with other places, to which emigrants have not in practice been subjected to the same frauds.

Section 21. In case any passenger, having arrived at the place of embarkation by the appointed time, cannot obtain a passage in the ship for which he contracted, he shall be entitled to the return of the money he had paid on account of his passage, and to any further sum, not exceeding 5*l.* for each passenger, which the magistrate may find it reasonable to award by way of compensation; or if he choose to accept a passage by any other vessel, he shall be entitled to maintenance, as in other cases of detention, for the time during which he may have to wait for his passage by such other vessels. The payments under this clause to be recoverable by sum mary process, in like manner as other penalties under the Act, either from the person who signed the receipt, or from any other party whose agent he may have been in so doing.

Note.—The object of this section is to provide redress for one of the kinds of fraud described in the note to Section 18.

XIV. And be it further enacted, That if any ship shall not actually put to sea, and proceed upon any such intended voyage as aforesaid, on the day for that purpose appointed in and by any contract made by the owner, master, or charterer of such ship, or by their agent, with any passenger who shall on that day be on board the same, or ready to proceed on such intended voyage, then and in every such case the master of such ship shall pay to each and every such passenger as shall have contracted to victual himself a fine, to be computed at and after the rate of 1*s.* in respect of each day during which he or she shall be so detained previously to the actual clearing out and final departure of such ship on such voyage, and that the same may be recovered daily; and the master of such ship shall victual each and every such passenger as shall have contracted to be victualled by the ship on and from the day which shall be so appointed: Provided always, that no such fine as aforesaid shall be incurred or be payable in respect of any detention of any such vessel which shall be so detained by stress of weather or other unavoidable cause.

Section 22. In case the ship shall not proceed on her voyage on the appointed day, the passengers shall either be suitably lodged on board, and supplied with full and sufficient rations under the circumstances, or else be paid an allowance as subsistence-money, at the rate of 1*s.* per diem for each passenger.

Note.—The deviations proposed from the present Act, and the reasons, are as follows:—

In the present Act a distinction is taken between passengers who shall have contracted to be victualled by the ship and passengers who victual themselves, and only the last are declared to be entitled to the payment for detention, the others being merely declared entitled to be victualled as contracted for. But the same ship which is not ready to depart with the one class of passengers, will most commonly be also not ready to receive and victual the other. Under the present Act, it is also to be observed that there will not be any class of passengers who entirely victual themselves. The most plain and equitable regulation appears to be, that from the appointed time all passengers equally shall either be provided for on board or else receive an indemnity on shore: and in this sense accordingly, even the existing enactment, notwithstanding its wording, has been enforced.

It can scarcely be necessary to add, that the case would not be met by the action for breach of contract; the remedy being one to which neither the circumstances of the parties nor the time that could be spared would be suitable, and for which it is among the principal objects of this law to substitute a simpler and shorter process.

According to the existing Act, the payment is not claimable during "detention by stress of weather, or other unavoidable cause." It is proposed to omit this exception. For the direct object of the payment is not punishment, but indemnity against losses, which losses accrue equally whatever be the cause of detention; and there seems no more reason why the passengers should be deprived of their maintenance during a detention by bad weather at starting, than during a delay by foul winds at sea.

The word "Fine," has been found to be misleading; the object of the clause being, as above-mentioned, not penal, but to provide indemnity. It is desirable to substitute some other expression, such as "Subsistence-money."

XV. And be it further enacted, That at the close of any such voyage as aforesaid every person arriving as a passenger at any port or place shall, during the space of forty-eight hours next after such arrival, be entitled to continue on board such ship, and to be provided for and maintained on board the same in such and the same manner as during such voyage, unless in any case it shall have been expressly stipulated and agreed between any such passenger and the master of such ship, that such passenger shall not be entitled to such provision or maintenance during the said period of forty-eight hours, or unless in the ulterior prosecution of her voyage, any such ship shall quit any such port or place within the said period of forty-eight hours.

Section 23. The passengers shall be entitled to maintenance on board for 48 hours after arrival at their destination, unless the ship shall quit the place within that period in the ulterior prosecution of her voyage.

Note.—The existing clause, besides the case of a ship quitting the place in less than 48 hours, also excepts the case in which passengers may have contracted to forego the advantage of the clause. This exception it is proposed to omit, as being unnecessary, and likely to suggest a mode of imposition upon the emigrants.

Section 24. The master shall afford to the government agent for emigrants, or to the officer of customs at any port where the emigrants may be landed, every facility for inspection, and for ascertaining that the Act has been duly observed.

Note.—This section is new. Its object needs no explanation, but the want of such a provision has been practically felt in some of the colonies.

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XVI. And be it further enacted, That if any ship carrying passengers on any voyage from any port or place in the United Kingdom, or in the islands of Guernsey, Jersey, Alderney, Sark, or Man, on any voyage to or for any port or place out of Europe, and not being in the Mediterranean Sea, shall carry any number of passengers exceeding by more than one person in fifty the proportion authorized and allowed by this present Act; or if such ship shall not be of the height between decks hereinbefore required; or if such a platform as hereinbefore directed shall not be laid and continued throughout the whole duration of any such voyage in such manner as is hereinbefore required; or if there shall be more than two tiers of berths; or if there shall not be throughout the whole duration of any such voyage such an interval as is hereinbefore prescribed between the deck and the floor of the lower tier of berths; or if any such ship shall clear out and put to sea not having on board such water and provisions as aforesaid, for the use and consumption of the said passengers, of the kind and to the amount and in the proportion hereinbefore required; or if a table of the prices of provisions or stores shall not be exhibited as hereinbefore required; or if any higher prices than are named in such table shall be charged; or if there shall not be on board any such vessel such medical practitioner as aforesaid, or such medicines and other things necessary to the medical treatment of the passengers, as is hereinbefore required; or if any such ship shall be cleared out before such lists or passengers as hereinbefore mentioned shall have been delivered in manner and form aforesaid to such officer as aforesaid; or if any such list shall be wilfully false; or if the copy or abstract of this Act be not produced as hereinbefore required; or if any passenger shall not be allowed to continue on board such ship in manner hereinbefore provided; or if any passenger shall, without his or her previous consent, be put on shore at any place other than the place at which the master had contracted to land such passenger; the master of any such ship shall for and in respect of each and every such offence be liable, on such summary conviction as hereinafter mentioned, to the payment of a fine of not less than Five Pounds, nor more than Twenty Pounds sterling British money.

XVII. Provided nevertheless, and be it further enacted, That nothing herein contained shall take away or abridge any right of suit or action which may accrue to any passenger in any such ship, or to any other person, in respect of the breach or non-performance of any contract made or entered into between or on the behalf of any such passenger or other person and the master.

XVIII. And be it further enacted, that all indictments or informations against any person or persons for, or in respect of any offences by them committed, or alleged to have been committed under this Act, and that all proceedings for the recovery of any fines, penalties, or forfeitures incurred or alleged to have been incurred by any person or persons under this Act, shall be preferred and prosecuted by any person or persons whomsoever, and shall be proceeded with and determined before such and the same Courts, magis-

Proposed Amendments and Explanatory Remarks.

Section 25. For all breaches of the Act, except those to which special penalties have been attached, it is proposed to name a penalty of not less than 5*l.* nor more than 50*l.*

Note.—The present rate of penalty is not less than 5*l.*, nor more than 20*l.* Seeing the importance to human life of many of the regulations established by this Act, and the profit that may occasionally attend a disregard of them, it seems not too much to allow a discretion to impose a penalty as high as 50*l.*

The penalties for the sale of spirits, and for carrying an excess of passengers, having been fixed elsewhere, these offences will not appear in the enumeration in the present section.

On the other hand, some of the rules respecting lists of passengers appear to have been accidentally omitted from the enumeration in the existing clause, and practical inconvenience has occurred in consequence. This omission should, of course, be rectified.

Section 26. The passengers' private right of action not to be taken away or abridged. Same as Clause XVII. of the present Act.

Section 27. This will be the place to settle the method of the prosecution and recovery of penalties. The rules now in force on the subject will be found at Clause XVIII of the present Act.

Note.—There is an imperative demand for some improvements in this part of the law, but the subject cannot be fully treated without professional knowledge.

In order to show the nature of the practical inconvenience at present felt in the colonies, a passage may be extracted from Mr. Buchanan's Report for 1840.

"The object of the 18th clause is defeated in Canada by the want of jurisdiction "of the local magistrates under any Acts of Parliament now in force relating to "smuggling, to the customs, to trade, or navigation. The Court of Vice-Admiralty "is the only tribunal before which the proceedings contemplated by this Act can

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trates, and justices of the peace, and in such and the same manner, and by such and the same persons, and with, under, and subject to all such and the same rules, provisoes, conditions, and restrictions, as in the case of any indictments or informations preferred, or proceedings taken for, or in respect of any offence committed, or for the recovery of any fines, penalties, or forfeitures incurred, under any Act of Parliament now in force for the prevention of smuggling, or relating to the customs, or to trade or navigation: Provided always, that in order to the preferring, prosecuting, proceeding with, or determining any such indictments or informations under this present Act, the direction or consent of the Commissioners of Customs shall not be necessary or required, any thing in such Acts of Parliament as aforesaid to the contrary in anywise notwithstanding.

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"be taken. If jurisdiction should be given to colonial magistrates, a general "reference to a course of proceedings, of which they have no knowledge, would not "be sufficient."

Suits in the Vice-Admiralty Court have proved far too expensive to be resorted to. It seems very desirable, therefore, that summary power should be given to justices in the colonies, (as has in point of fact been done, so far as regards the British West Indies, by the Act 3 and 4 Victoria, cap. 21, extending the Passengers' Act to those possessions,) and that if directions are necessary as to their procedure, they should be in some simpler form than a reference to the English Smuggling and Navigation Acts.

In the United Kingdom again, when a ship is detained, a separate proceeding is at present required, in case the brokers make any opposition, to recover the subsistence-money for each passenger. When there are often so many as 100, or 200 passengers, it is obvious that the inconvenience may become so great as to expose the Act to defeat. It would be a great improvement if some means could be found of making one proceeding suffice for all the passengers by the same ship.

It has been suggested by Mr. Buchanan, from his experience at Quebec, that the master, or person in command of vessels carrying passengers, should be liable to them for all contracts made by the owner, charterer, broker, or ostensible agent. Experience from other quarters has also shown that the provision is required, the common plea of the master being, that he is not the person who has made the contract with the passengers.

XIX. And for the more effectually securing the observance of the aforesaid rules, and the payment of the penalties aforesaid; be it further enacted, That before any ship carrying passengers shall clear out for any such voyage as aforesaid from any port or place in the United Kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, to, or for any port or place out of Europe, and not being in the Mediterranean Sea, the master of the said ship shall enter into a bond to His Majesty, his heirs and successors, with one good and sufficient surety, to be approved by the collector or other chief officer of customs at such port, in the sum of One thousand pounds, the condition of which bond shall be, that the said ship is sea-worthy, and that all and every the rules and regulations made and prescribed by this Act for the carriage of passengers shall be well and truly performed before and during such intended voyage, and that all penalties, fines, and forfeitures which the master of such ship may be sentenced or adjudged to pay for or in respect of the breach or non-performance, before or during such voyage, of any such rules and regulations, shall be well and truly paid: Provided always, that such bond shall be without stamps, and that no such bond shall be put in suit, and that no prosecution, suit, action, or information shall be brought under, or by virtue of this Act, or upon, or by reason of the breach of any of the provisions thereof, in any of His Majesty's possessions abroad after the expiration of Twelve calendar months next succeeding the commencement of any such voyage as aforesaid, nor in the United Kingdom, or any of the islands before mentioned, after the expiration of Twelve calendar months next after the return of the master to the port or place from which he sailed on such voyage.

Section 28. Bond to be given for due performance of the Act. The owner or charterer should be bound jointly with the master of the vessel. Bond should not be required in the case of any vessel which does not carry more than 50 passengers. No prosecution to take place under this Act after the expiration of 12 months, computed from the termination of the average voyage as herein fixed.

Note.—The bond is a somewhat onerous part of the Act, and ought not to be exacted of a ship carrying only a small number of passengers.

It is advisable to require the owner or charterer to be bound jointly with the master, because the latter is necessarily far less accessible, and also not equally likely to be a responsible person to the amount of the bond.

Lastly, it would seem desirable that in fixing the limitation of prosecution in England, some more definite period should be taken than 12 months from the return of the master; and as the owner or charterer will be joined in the bond, and be accessible, it is proposed to take 12 months after the computed termination of the voyage, which will allow ample time for receiving information from the colony.

XX. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to ships carrying passengers in cases in which the number of persons, computed in manner hereinbefore provided, shall not exceed one person for every five tons of the registered burthen of such ship; nor shall any thing in this Act

Section 29. The Act shall not extend to any ship carrying less than 20 passengers, nor to Her Majesty's ships of war, nor to any ship in the service of the Lords Commissioners of Her Majesty's Admiralty, nor to ships of war or transports in the service of the East India Company.

Note.—The existing Act excepts ships carrying not more than one passenger to every five tons. The proportion which this allows is much too large. It would enable a ship of 500 tons to sail with 100 passengers without coming

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contained extend to any ship in the service of the Lords Commissioners of His Majesty's Admiralty, or in the service of His Majesty's Postmaster General, or in the service of the East India Company.

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within the law, and it enables several others, which would probably come within the law, to evade it.

Ships in the service of the Postmaster-General are proposed to be no longer excepted, as it is believed that the exception of ships in the service of the Admiralty will release from the operation of the Act as many as are desirable of vessels in the service of Her Majesty's Government. And with regard to the East India Company, the only vessels excepted are those employed for purposes of war, and transports; for there seems no more reason why merchant ships merely chartered by or belonging to the Company, should be excepted from the general law on this subject than vessels chartered by Her Majesty's Government for the conveyance of emigrants, which latter have always cleared out under the Passengers' Act, and will, under the proposed amendment, still continue to do the same.

N.B. Clause XXI. of the existing Act becomes superfluous by the terms now proposed to be introduced into the 8th section, as they will include the Bahamas in the West Indies, and assign to the whole their own proper length of voyage.

Inter-Colonial Voyages.

Here closes a review of all the enactments in the present Passengers' Act, and of all (except a few interpreting clauses at the end) which it is proposed to introduce into the new Act, so far as regards voyages from the United Kingdom. But since the time when the present Act was passed, a new class of voyages has arisen in other parts of the world. There has been an emigration from one part of the West Indies to another, from Sierra Leone to the West Indies, and also, for a time, from British India to some of the sugar-growing colonies; and in so far as relates to the inter-migration of passengers in the West Indies, the Passengers' Act was extended to those colonies, with some modifications, by the 3 and 4 Vic., c. 21. When the Act which it extended is replaced by another, the provisions of this statute will themselves need renewal. It seems the most natural course, therefore, to take the opportunity of incorporating them in the principal Act itself, and there appears no reason why those provisions should not at the same time be revised as far as necessary, and also generalised, so as to be rendered capable of application to the whole class of what may be termed, for the sake of distinction, inter-colonial voyages. They need not be actually applied except to the places where they are now known to be wanted; but a power may be given to the proper authorities to declare them in force in any new places where a like want may hereafter arise. The Imperial Passengers' Act will then contain the elements of a complete body of regulations for the conveyance of emigrants from all parts of Her Majesty's dominions.

In effecting this purpose, however, it must not be overlooked that at the time when the Passengers' Act was framed, the shortest voyage to which it related was 10 weeks, being the passage from the United Kingdom to North America, and that the main bulk of its enactments, as is apparent on the face of them, were conceived with reference to long voyages and to ships of some considerable size. To extend these without distinction to all kinds of short passages, some of them made, very probably, in boats or vessels of the smallest class, might be attended with a disturbance of existing habits, and an amount of general inconvenience, that would render the enforcement of the law impracticable. For general purposes, then, three weeks are suggested as the smallest length of passage to which the Act ought to be applicable. But, on the other hand, peculiar circumstances in the West Indies have been deemed to require some legislative protection for persons embarking on much shorter passages, and it is necessary, therefore, to endeavour to settle what part of the law should apply to those cases. The object, then, of the following sections will be, first, to provide for a general adaptation of the leading enactments of the Passengers' Act to inter-colonial voyages which amount to a length of three weeks or more, and secondly, to lay down such further modifications and exceptions as will admit of the Act's being extended for the West Indies, to any shorter passage which shall be computed at not less than three days in duration.

Section 30. Whereas it is expedient to provide in certain cases for the regulation of inter-colonial voyages, this Act shall extend, except as hereinafter excepted, to the carriage of passengers from the British West India Islands, including in that term the Bahamas, and from British Guiana; and also from Malta; from Her Majesty's possessions on the west coast of Africa; and from the Mauritius.

Section 31. It shall be lawful for the governor of any other of Her Majesty's colonies besides those above mentioned, to declare by proclamation that this Act is extended with the like exceptions and modifications to the colony under his government.

Section 32. In any colony to which this Act is extended, it shall be lawful for

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the governor to declare by proclamation the computed length of voyage to other places, provided that except as hereinafter excepted with regard to the West Indies, the Act shall not be extended to any voyage of which the computed length is not declared to amount to three weeks.

Note.—The same power of declaring the duration of voyages is conveyed by the third clause of the present West India Extension Act, 3 & 4 Vict. c. 21. With regard to the limitation of the length of voyages to which the Act shall extend, an explanation has been given already in the note that precedes Section 30.

Section 33. It shall be lawful for the governor to substitute by proclamation other equivalent articles of food for those hereinbefore enumerated.

Note.—This power is contained in the third clause of the present West India Extension Act.

Section 34. Provided that all such proclamations as aforesaid be transmitted for Her Majesty's confirmation or disallowance: and provided also that attested copies of such proclamations be receivable as evidence in any of Her Majesty's colonies wherein the same may be produced.

Note.—This is adopted from Clause IV. of the West India Extension Act.

Section 35. In inter-colonial voyages, the powers for pronouncing on the sea-worthiness of a ship, which are hereinbefore conferred on the government emigration agent or on the collector and comptroller of customs shall be vested, in the governor of the colonies from which the ship is to sail.

Note.—Same as Clause VI. of West India Extension Act.

Section 36. In inter-colonial voyages, bond shall not be required.

Note.—The demand of bond is the one of the enactments in this law most likely to be felt onerous: and at places abroad where the masters of vessels are at a distance from their connexions, and where also the voyages will often be much shorter than those from the United Kingdom, it seems a condition that ought not to be imposed.

Section 37. The regulations of the Act shall not be deemed to be hereby extended to inter-colonial voyages, so far as regards the following subjects, viz.:—The keeping of copies of the Act on board, the use of a specific form of receipt for passage-money, the licensing of passage-brokers, the return of passage-money, and compensation, in case the party cannot be forwarded by the appointed ship; and the payment of subsistence-money in case of detention. Provided, however, that this shall not prevent the local legislatures from making any regulations by their own authority on the foregoing subjects respectively.

Note.—At distant places and small ports, there would be obvious practical inconvenience in requiring copies of the Act to be supplied on board. The other regulations are excepted, because in their present shape they are founded entirely on circumstances as they exist in the United Kingdom, but it will be seen that a power is reserved to the local legislatures of substituting other regulations of a similar nature, if found necessary for the protection of emigrants while still within the jurisdiction of the colony from which they are removing.

Section 38. Within the West Indies the Act shall apply to any voyages of which the computed length shall amount to three days at least, provided, however, that in every case in which such voyage shall not amount to three weeks, it shall be enough that the quantity of provisions required by the Act be supplied either by the owner of the vessel or by the passengers themselves, and that it shall not be imperative on the former alone to supply and issue the same; and provided also, that in all such cases the following provisions of this Act be excepted:—

Construction and thickness of the deck.
Berthing.
Height between decks.
Surgeon and medicine chest.
Maintenance of passengers for 48 hours after arrival.

Note.—It can hardly be necessary to state at length, the reasons for such modifications as these in regard to passages of very short duration, of which some may probably be made habitually, and without any just objection, in boats. Of the passages hitherto declared by law in the West Indies, a great number are computed at less than a-week. Some, it may be added, are only of a few hours' length. But if it really should prove necessary to legislate for such transits as these last, a task which it would hardly seem possible to fulfil without unduly confining the free circulation of a population living upon small islands, and always in the close vicinity of the sea, it would probably require to be effected by some different instrumentality than that of an Act, fit to provide for regular voyages in ships.

Section 39. It shall be lawful for the governors of any other colonies to adopt the foregoing provision in regard to voyages shorter than three weeks, by pro-

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clamation, in like manner as already provided with regard to the other enactments herein contained on inter-colonial voyages.

Section 40. The present Act shall not prevent the enactment of the same or similar rules, by authority of the colonial legislatures, but it shall not be competent to them to establish anything repugnant to this Act.

Note.—Same as Clause VII. of the present West India Extension Act.

Section 41. The Governor General of India in Council shall have all the same powers of adopting the provisions of this Act, for any ports situated in British India, as are herein conferred on the governors of any of Her Majesty's colonies, except that instead of proclamation as in the other cases, such power shall be exercised according to the established methods of legislation in India.

Note.—In case of any emigration of labourers from India, it might be very convenient that the Governor-general should have this power. The advantage of its being conferred specially by this Imperial Act would be, that it would give a means of recovering penalties for infraction of the rules, in places situated beyond the jurisdiction of India, which would not be the case, it is presumed, if this subject were left to the ordinary powers of Indian legislation.

Section 42. Foreign ships conveying passengers from British ports shall come within the operation of this Act.

Note.—It was found that the terms of the existing Passengers' Act did not reach foreign ships, and the defect has hitherto been supplied by a clause in one of the Customs' Acts, but the present will be an opportunity to render the Act itself complete in this respect.

Section 43. Whenever the term passengers, singly, is used in this Act, it is not to be construed to extend in any way to the class commonly known and understood by the name of cabin passengers.

Section 44. In all public proceedings the Act to be referred to by the title of "The Passengers' Act."

SCHEDULE REFERRED TO IN THE SIXTEENTH SECTION OF THIS ACT.

Ship's Name.	Master's Name.	Tons per Register.	Aggregate Number of Superficial Feet in the several Compartments set apart for Steerage and Intermediate Passengers.	Total Number of Statute Adults the Ship can legally carry.	Where Bound.

NOMINAL LIST OF PASSENGERS.*

Ports of Embarkation.	Name of Passengers.	Adults.			Children under 14 Years.			Profession, Occupation, or calling of Passenger.	Port at which Passengers have contracted to be landed.
		M.	F.	Total.	M.	F.	Total.		
	Total Number of Souls equal to Statute Adults.								

† We hereby certify the above is a correct List of all the Passengers who embarked at the Port of —— (Signed) —— *Master.*

Countersigned, —— *Chief Officer of Customs.*

I hereby certify that the provisions actually laden on board this ship, according to the Section of the Passengers' Act, are sufficient for passengers, computed according to the Act.

(Signed) ——

Master.

Date——

* Each list to be signed by the master of the ship, and countersigned by the proper officer of Customs at every port where emigrants embark.
† This certificate to be repeated at every port or place at which passengers may embark.

PASSENGERS' CONTRACT TICKET.

N.B.—*Any one receiving money from, or in respect of, any Steerage Passenger about leaving the United Kingdom for any place out of Europe without using this Form, and correctly filling up the blanks therein, and signing it with his name in full, will be liable to a penalty of £*

Ship _____ of _____ tons register burthen to sail for _____ from _____ on the _____ day of _____ 184

Names.	Ages.	Equal to Statute Adults.

I engage that the parties herein named shall be provided with a steerage passage to _____ in the ship _____ with sufficient space for the stowage of luggage, for the sum of £ _____ including Head Money in the Colony, if any, and every other charge; and I hereby acknowledge to have received the sum of £_____ in full / part payment.

If the ship is detained beyond the abovementioned day, the Passengers who have arrived at the Port are entitled by law to receive an allowance of one shilling per day for each adult.

Water, and a sufficiency of bread, rice, oatmeal, &c., will be provided by the ship as required by law, and also fires for cooking, and cooking apparatus.

Fish, meat, bacon, tea, and other articles necessary for a complete diet, will be provided by _____.*

Utensils for eating and drinking will be provided by _____.*

Bedding will be provided by _____.*

Deposit £_____

Balance £_____ { To be paid before the ship clears for Sea.

Total £_____

Signature _____ { N.B.—If signed by a Broker or Agent, state on whose behalf.

Date _____

* Fill up these blanks by stating, in each case, whether the articles are to be supplied by the Ship or by the Passenger.